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November 24, 2008

Ravalli County Commissioners
215 S. 4th Street, Suite A
Hamilton, Montana 59840

Re: Max Martz Airport Lease

Dear Board of Ravalli County Commissioners:

This office represents Maxwell C. Martz. I am writing to respond to your letter dated November 3, 2008 concerning the residential use of his airport lease.

Please be advised that it is unlawful for the County to attempt to unilaterally change the terms of Mr. Martz's lease without Mr. Martz's consent. The County is also prohibited from taking the position espoused in your letter under the equitable doctrine of estoppel.

In 2003, Mr. Martz constructed a residence on the leasehold in direct reliance upon the blessing and encouragement of the Ravalli County Board of Commissioners. In reliance, Mr. Martz used the proceeds from the sale of his home and airplane, and incurred loans totaling \$163,000, to finance the purchase and remodeling of the airport hangar. This project included 2,376 square feet of restaurant/pilot lounge and 1,728 square foot residence.

The members of the 2003 Ravalli County Board of Commissioners toured Mr. Martz's apartment and complimented him on the construction. The board also requested benefits from Mr. Martz associated with the project through a septic system he built which serves commercial improvements at the airport. There was never any notice that Mr. Martz's intended use of the property violated county or other regulations or policies. In an interview last year with appraiser Kraig P. Kosena, MAI, a member of the Board of Commissioners acknowledged:

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Ravalli County Commissioners

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[T]he Ravalli County Board of County Commissioners knowingly allowed the current property owner [Mr. Martz] to convert the building to a residential use and *even entered into an agreement with Mr. Martz with regard to a new septic system that would not only serve the subject property but also other commercial improvements on the airport.*

Finally, Mr. Martz's lease expressly provides that it can be used for "pleasure, business, or commercial aircraft, or for operation of a restaurant." There is no prohibition on residential use in the lease such as is contained in the leases the County now writes at the airport.

In light of the foregoing, Mr. Martz must respectfully request that the Ravalli County Board of Commissioners cease and desist from communications designed to interfere with, affect the value of, and violate the rights he acquired in 2003. If the County has put itself in a position of conflicting with F.A.A. guidelines, the County cannot correct this problem by damaging Mr. Martz's interests at the expense of hundreds of thousands of dollars which he invested. The County cannot now insist that Mr. Martz should be damaged for an investment made in reliance upon the Board's consent and encouragement. In addition to violating his contractual and equitable rights, this would also appear to be a prohibited "taking" of Mr. Martz's property. In short, the County should consider seeking a "grandfathered" exception through the F.A.A. for Mr. Martz's property. In the alternative, Mr. Martz would be willing to consider an offer if the County is interested in purchasing his interest in the property.

Please have the Board's legal counsel contact me after you have had a chance to review this letter with her.

Very truly yours,



Michael L. Hayes

MLH:jmj

c: Karen Mahar, Esq.
Mr. Maxwell Martz